

# MEMORANDUM

Agenda Item No. 14(A)(20)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** July 19, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution authorizing the release of an unneeded drainage easement for drainage swale lying within the Northeast 1/4 of Section 23, Township 54 South, Range 40 East, in Miami-Dade County; and authorizing the County Mayor to execute disclaimer of interest for release of the drainage easement for drainage swale and to perform all acts required to effectuate the release, and directing the County Mayor to record instruments of conveyance authorized herein and provide copies to the clerk of the board

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

  
Abigail Price-Williams  
County Attorney

APW/lmp

# Memorandum



**Date:** July 19, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to be "Carlos A. Gimenez", written over the printed name.

**Subject:** Resolution Authorizing the Release of Unneeded Drainage Easement for Drainage Swale between the Florida East Coast Railway Right-of-Way and SW 70 Court, South of SW 40 Street as Requested by Amerilumber Hardware & Building Material, Inc.

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) authorize the County Mayor or County Mayor's designee to execute the attached Miami-Dade County disclaimer for the release of unneeded drainage easement for drainage swale between the Florida East Coast Railway right-of-way and SW 70 Court, south of SW 40 Street (Bird Road), encumbering Lot 2, Block 1, of the Amerilumber plat. The disclaimer is included as Attachment A to the resolution.

## **Scope**

The site is located east of SW 70 Court in the vicinity of SW 40 Street (Bird Road), in Commission District 7, which is represented by Commissioner Xavier L. Suarez.

## **Fiscal Impact/Funding Source**

This item does not require the expenditure of any funds by Miami-Dade County.

## **Track Record/Monitor**

The Development Services Division of the Department of Regulatory and Economic Resources administers matters affecting plats and waivers of plat, and the person responsible for this function is Raul A. Pino, P. L. S.

## **Background**

In 1959, Mary Opsahl, a widow, gave Miami-Dade County a "drainage easement for drainage swale over and across said property..." in Section 23, Township 54 South, Range 40 East, Miami-Dade County, Florida (Exhibit B to the disclaimer). The easement is located on the south 20 feet of the north 97.76 feet of Lot 2, Block 1, as measured along the east and west lines of said Lot 2, Block 1, of the plat of Amerilumber, recorded in Plat Book 171, Page 66, of the Public Records of Miami-Dade County, Florida. A site diagram is attached as Exhibit C to the disclaimer.

The property encumbered by the above-stated drainage easement for drainage swale is owned by Amerilumber Hardware & Building Material, Inc., which has requested the release of the 20-foot wide drainage easement within the subject property on the east side of SW 70 Court near SW 40 Street. In accordance with the required roadway improvements within SW 70 Court, made a part of and as requirements of the recorded Amerilumber plat, and also noted on the approved paving and drainage plans associated with said plat, the aforementioned drainage easement for drainage swale, with an area of 0.09 acres, is not needed for drainage purposes. The Department of Transportation and Public Works has no objection to this release of easement.

A handwritten signature in black ink, appearing to be "Jack Osterholt", written over the printed name.

Jack Osterholt  
Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** July 19, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 14(A)(20)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 14(A)(20)  
7-19-16

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE RELEASE OF AN UNNEEDED DRAINAGE EASEMENT FOR DRAINAGE SWALE LYING WITHIN THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 54 SOUTH, RANGE 40 EAST, IN MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE DISCLAIMER OF INTEREST FOR RELEASE OF THE DRAINAGE EASEMENT FOR DRAINAGE SWALE AND TO PERFORM ALL ACTS REQUIRED TO EFFECTUATE THE RELEASE, AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD INSTRUMENTS OF CONVEYANCE AUTHORIZED HEREIN AND PROVIDE COPIES TO THE CLERK OF THE BOARD

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

**WHEREAS**, Amerilumber Hardware & Building Material, Inc., a Florida Corporation, is the owner of the property in Section 23, Township 54 South, Range 40 East, which is encumbered by those rights in the drainage easement for drainage swale given to Miami-Dade County in 1959 by Mary Opsahl, a widow, to be used for drainage and swale purposes; and

**WHEREAS**, Amerilumber Hardware & Building Material, Inc., has requested the release of the 20-foot wide drainage easement for drainage swale encumbering Lot 2, Block 1, of the Amerilumber plat recorded in Plat Book 171, Page 66, of the Public Records of Miami-Dade County, Florida by virtue of an Indenture by Mary Opsahl, a widow, recorded in Official Records Book 1631 at Page 639, of the Public Records of Miami-Dade County, Florida, in Section 23, Township 54 South, and Range 40 East, with a total area of 0.09 acres; and

**WHEREAS**, the drainage easement for drainage swale is not needed for the drainage purposes of SW 70 Court; and

**WHEREAS**, in consideration of this and on behalf of Miami-Dade County in accordance with the Miami-Dade County Public Works Manual, the Department of Regulatory and Economic Resources has determined that the requested drainage easement for drainage swale is no longer needed by Miami-Dade County for drainage purpose protection; and

**WHEREAS**, in order to promote development, and because the easement is no longer needed by the County, this Board finds that such release may be effectuated,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that:

**Section 1.** This Board hereby adopts and incorporates the foregoing recitals as if fully set forth herein.

**Section 2.** This Board authorizes the release of the unneeded drainage easement for drainage swale from Miami-Dade County in Section 23, Township 54 South, Range 40 East, as indicated in the Mayor's memorandum, a copy of which is attached hereto and incorporated herein by reference; and authorizes the County Mayor or County Mayor's designee to execute the disclaimer for release of the drainage easement for drainage swale from Miami-Dade County through the instrument of conveyance, in substantially the form attached hereto and made a part hereof, on or after the effective date of this resolution, and to perform all acts necessary to effectuate same.

**Section 3.** Pursuant to Resolution No. R-974-09, the Board directs the County Mayor or the County Mayor's designee to record the instrument of conveyance accepted herein in the Public Records of Miami-Dade County, Florida and to provide a recorded copy of the instrument

to the Clerk of the Board within 30 days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 19<sup>th</sup> day of July, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Lauren E. Morse

# ATTACHMENT A

This instrument was prepared by:

Department of Regulatory and Economic Resources  
111 NW 1<sup>st</sup> Street, 11<sup>th</sup> Floor  
Miami, Florida 33136

Page 1 of 6

## MIAMI-DADE COUNTY, FLORIDA, DISCLAIMER

KNOW ALL MEN BY THESE PRESENTS that MIAMI-DADE COUNTY, a political subdivision of the State of Florida, does hereby give notice that it disclaims certain rights, title and interests which said MIAMI-DADE COUNTY has in the following described lands lying and being in Miami-Dade County, Florida, to wit:

SEE EXHIBIT A

WHEREAS, Mary Opsahl, a widow, by Indenture dated September 11, 1959, recorded in Official Records Book 1631 at Page 639 of the Public Records of MIAMI-DADE COUNTY, FLORIDA, conveyed, assigned, set over and granted to Miami-Dade County for drainage easement for drainage swale purposes only, the above described lands; and

WHEREAS, the aforesaid rights in reservations upon the said above described land are not now needed by MIAMI-DADE COUNTY for drainage purposes:

NOW, THEREFORE, MIAMI-DADE COUNTY DOES disclaim any interest it has in the aforementioned lands by virtue of the said Indenture dated September 11, 1959, recorded in Official Records Book 1631 at Page 639 of the Public Records of Miami-Dade County, Florida.

BY THE ISSUANCE of this instrument MIAMI-DADE COUNTY does not purport to lessen or diminish any other existing drainage easement nor the rights of any other agency or governmental body in and to the aforementioned lands.

IN WITNESS WHEREOF MIAMI-DADE COUNTY FLORIDA, has caused these presents to be  
executed in its name by its Board of County Commissioners acting by the Mayor and the Clerk or Deputy  
Clerk of said Board on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

ATTEST:

MIAMI-DADE COUTNY, FLORIDA  
BY ITS MAYOR

HARVEY RUVIN  
CLERK OF SAID BOARD

By: \_\_\_\_\_

By: \_\_\_\_\_  
Carlos A. Gimenez, Mayor

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has  
produced \_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:

Sign \_\_\_\_\_  
Print \_\_\_\_\_

STATE OF FLORIDA at large  
(Seal)

My commission expires: \_\_\_\_\_



EXHIBIT A

The S 20.00 ft of the following: "Commencing at the NW corner of the E ½, NW ¼, NE ¼ of Sec 23, Twp 54 S, Rge 40 E; thence run East along the north line of the said NE ¼ of Sec 23 for a dist of 486.54 ft to the West line of the FEC RR r/w line; thence S 0° 39' 35"W along the said FEC RR r/w line for a dist. of 50.00 ft. to the POB of the tract of land herein described: thence continue S 0° 39' 35"W for a dist. of 395.54 ft.; thence S89°52'00"W for a dist. of 200.00 feet; thence N0° 39' 35"E 396.01 ft. to a point lying 50.00 ft. south of the aforesaid north line of the NE ¼ of Sec 23; thence run East along a line 50.00 ft. south of & parallel to the said north line of the NE ¼ of Sec 23 for a distance of 200.00 ft. to the POB, lying in Dade County, Florida and containing 1.36 acres, more or less."

Also known as:

The South 20 feet, of the North 97.76 feet of Lot 2, Block 1, as measured along the east and west lines of said Lot 2, Block 1, of the plat of Amerilumber, recorded in Plat Book 171, Page 66, of the Public Records of Miami-Dade County, Florida.

## DRAINAGE EASEMENT FOR DRAINAGE SWALE

STATE OF FLORIDA  
COUNTY OF DADE

THIS INDENTURE, made and entered into by and between

MARY ORSAHL, A WIDOW

KNOW ALL MEN BY THESE PRESENTS

Party

of the County and State aforesaid, as ~~Party~~  
of the First Part, and the County of Dade, a political subdivision of the State of Florida,  
whose permanent post office address is Tenth Floor, Dade County Court House, Miami,  
Florida, as Party of the Second Part.

KNOW ALL MEN BY THESE PRESENTS that whereas the Parties of the First  
Part are the owners of the following described land in Dade County, Florida:  
"Commencing at the NW corner of the E 1/2, NW 1/4, NE 1/4 of Sec 23, Twp 54 S, Rge 40 E;  
thence run East along the north line of the said NE 1/4 of Sec 23 for a dist. of  
486.54 ft. to the West line of the FEC RR r/w line; thence S 0° 39' 35" W along the  
said FEC RR r/w line for a dist. of 50.00 ft. to the POB of the tract of land herein  
described; thence continue S 0° 39' 35" W for a dist. of 395.54 ft.; thence  
S 89° 52' 00" W for a dist. of 200.00 ft.; thence N 0° 39' 35" E 396.01 ft. to a point  
lying 50.00 ft. south of the aforesaid north line of the NE 1/4 of Sec 23; thence  
run East along a line 50.00 ft. south of and parallel to the said north line of the  
NE 1/4 of Sec 23 for a distance of 200.00 ft. to the POB, lying in Dade County,  
Florida and containing 1.36 acres, more or less."

And whereas the parties hereto desire that

A drainage swale be constructed

over and across said property, and that said swale be maintained and kept  
free and clear of all obstructions, debris, silt, hyacinths, and other vegetable matter, and  
the Parties of the First Part, to accomplish said purpose, are willing to convey to the Party  
of the Second Part an easement hereinafter described to be used by the Party of the  
Second Part for the construction, clearing and maintenance of said swale.

NOW THEREFORE, in consideration of the premises, and of the sum of One Dollar  
(\$1.00) in hand paid by the Party of the Second Part to the Parties of the First Part,  
receipt whereof is hereby acknowledged, the Parties of the First Part have granted,  
bargained and sold and by these presents do hereby grant, bargain, sell and convey to  
the Party of the Second Part an easement over, along and across that certain strip of  
land being a part of the land hereinabove described, the description of which is as follows:  
The S 20.00 ft. of the following: "Commencing at the NW corner of the E 1/2, NW 1/4, NE 1/4  
of Sec 23, Twp 54 S, Rge 40 E; thence run East along the north line of the said NE 1/4 of  
Sec 23 for a dist. of 486.54 ft. to the West line of the FEC RR r/w line; thence S 0° 39' 35" W  
along the said FEC RR r/w line for a dist. of 50.00 ft. to the POB of the tract of land  
herein described; thence continue S 0° 39' 35" W for a dist. of 395.54 ft.; thence  
S 89° 52' 00" W for a dist. of 200.00 ft.; thence N 0° 39' 35" E 396.01 ft. to a point lying  
50.00 ft. south of the aforesaid north line of the NE 1/4 of Sec 23; thence run East along  
a line 50.00 ft. south of and parallel to the said north line of the NE 1/4 of Sec 23 for a  
distance of 200.00 ft. to the POB, lying in Dade County, Florida and containing 1.36 acres,  
more or less."

together with the right to remove all trees, growth and shrubbery therefrom and to de-  
posit such spoil, silt, hyacinths, and other vegetable matter which the Party of the Second  
Part shall remove from the swale from time to time in the construction, clear-

ing and maintenance of said swale and together also with the right to the  
Party of the Second Part to use said strip of land in such manner as may be necessary  
in the operation of its heavy equipment used by the Party of the Second Part in the  
construction and clearing of said swale.

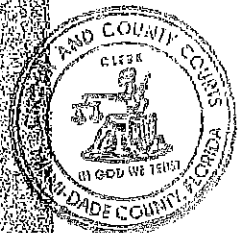
All of the provisions hereof shall enure to the benefit of the heirs, executors, admin-  
istrators and assigns and the successors in interest of the respective parties.

IN WITNESS WHEREOF, the Parties of the First Part have hereunto set their  
hands and seals on this, the 22 day of June, A. D. 1972.

Signed, sealed and delivered  
in the presence of

Mary Orsahl (SEAL)

(SEAL)



STATE OF FLORIDA }  
COUNTY OF DADE } SS.

BEFORE ME, the undersigned authority, on this day personally appeared the above and within named MARY OPSAHL, A WIDOW

~~XXXX~~  
known to me well known and known by me to be the persons described in and who executed the foregoing instrument and ~~they~~ acknowledged to me that ~~they~~ executed the foregoing instrument and ~~they~~ acknowledged to me that ~~they~~ executed the same freely and voluntarily and for the uses and purposes therein set forth.

WITNESS my hand and official seal at and in the County and State aforesaid on this, the 2 day of January, A. D. 1939.

James Bragdon, Jr.  
Notary Public, State of Florida at Large

My commission expires:

Notary Public, State of Florida at Large  
My commission expires on Jan. 2, 1941

DADE COUNTY, FLORIDA

and duly recorded in CRIMINAL RECORDS  
BOOK 1631 on 2-2-39 at 6:39  
P. M.  
By Harvey Ruvin Clerk of Circuit and County Courts  
Dade County, Florida

This day of SEP 1939 at M.

STATE OF FLORIDA }  
COUNTY OF DADE } SS.

DADE COUNTY, FLORIDA

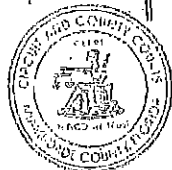
To

Mary Opsahl, a widow

FOR

DRAINAGE EASEMENT  
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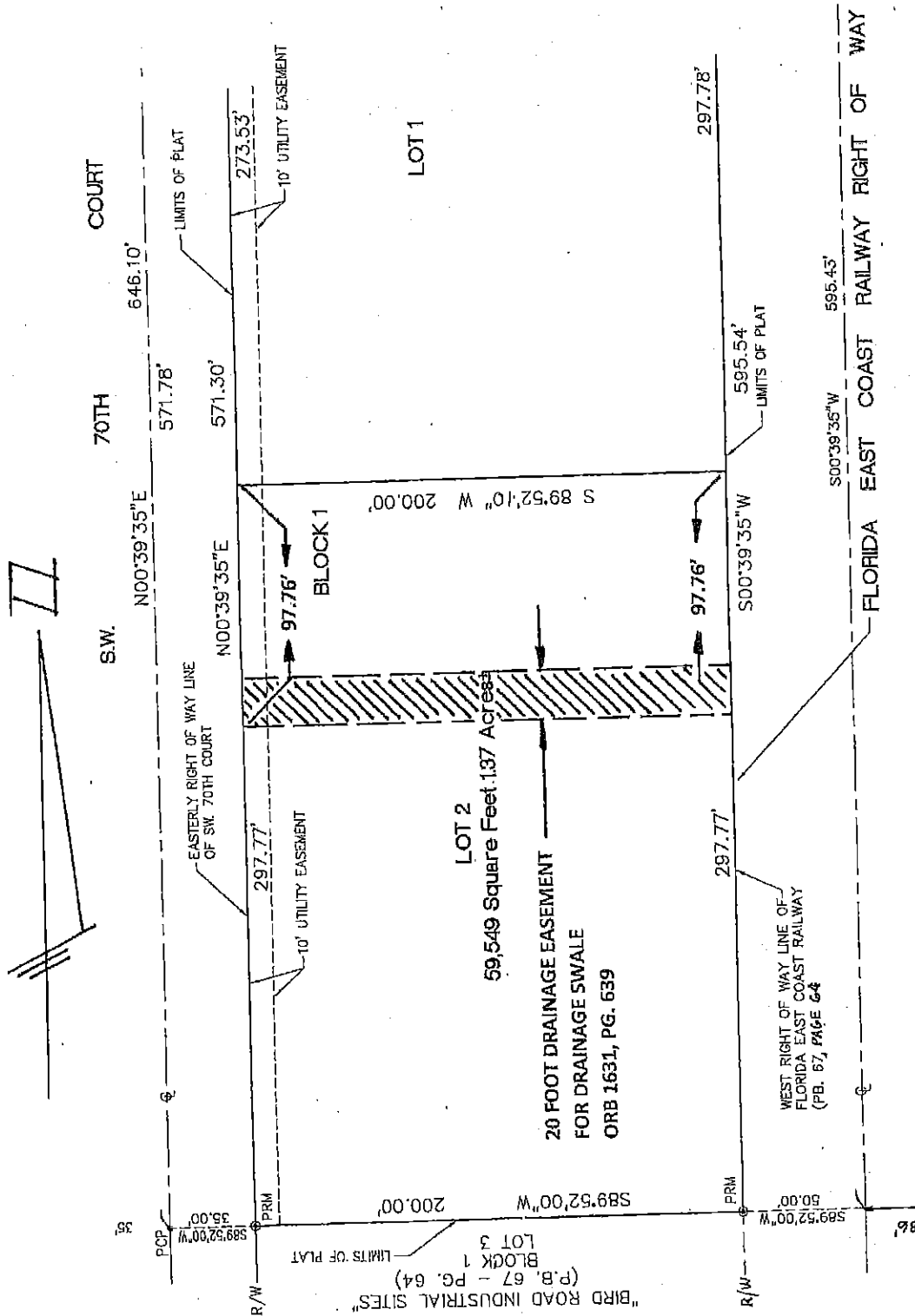
STATE OF FLORIDA COUNTY OF DADE  
I HEREBY CERTIFY that the foregoing is a true and correct copy of the original on file in this office.  
HARVEY RUVIN, CLERK, of Circuit and County Courts  
Deputy Clerk James P. Shuler



JOHNCE PIERRE SIMON 921 055

15cc 175

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**SITE DIAGRAM**

**AMERILUMBER, PLAT 171, PAGE 66**

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